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DEPT FOR DRL, INL, AND EUR/SCE, NSC FOR BRAUN, USUN FOR
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SUBJECT: KOSOVO: SCENESETTER FOR VISIT OF AMBASSADOR AT
LARGE FOR WAR CRIMES CLINT WILLIAMSON

REF: PRISTINA 727

Classified By: COM TINA S. KAIDANOW FOR REASONS 1.4 (B) AND (D).

11. (C) SUMMARY: Kosovo is in an important transition period with a decision on final status looming and the EU poised to assume UNMIK's Rule of Law (RoL) mission. Ambassador Williamson's September 15-17 visit offers a good opportunity to review current prosecution efforts and to shape the EU's approach to the issue as it defines its follow-on RoL mission. But with that opportunity come some significant challenges. War crimes prosecutions related to the Kosovo conflict remain highly problematic. The International Criminal Tribunal for the Former Yugoslavia (ICTY) continues to pursue cases against senior Serbian officials and former Kosovo Prime Minister and Kosovo Liberation Army (KLA) Commander Ramush Haradinaj and his subordinates, but its mandate expired in 2005 and it cannot accept new cases. Within Kosovo, efforts to identify and try war criminals have generally stalled. Local prosecutions are largely limited to Albanian-on-Albanian war crimes because Kosovo's courts have no access to Serbian suspects, now in Serbia, and witnesses are very reluctant to come forward in cases against suspected Albanian war criminals, especially with no formal witness protection program in place. END SUMMARY.

Kosovo's War Crimes Prosecution Apparatus Today and Tomorrow

12. (C) War crimes prosecutions in Kosovo have been handled by international investigators, prosecutors and judges since UNMIK's establishment at the end of the Kosovo conflict. According to UNMIK Department of Justice Director Al Moskowitz, this is largely because local authorities cannot do it fairly and effectively and are reluctant to take the cases for political and social reasons. Based on conversations with EU Planning Team (EUP), UNMIK and OSCE officials, USOP believes that internationals will remain in charge of war crimes issues in the EU follow-on RoL Mission. Casper Klynge, the EUP head, assured us that the EU would remain very engaged on war crimes issues and that there would be a special "executive policy unit" for sensitive areas, including war crimes (reftel).

War Crimes Cases Related to the 1998-1999 Kosovo Conflict

¶3. (SBU) The International Criminal Tribunal for the Former Yugoslavia (ICTY) has taken up three war crimes cases related to the Kosovo conflict. It tried former PDK Assembly Caucus Leader Fatmir Limaj and two of his comrades-in-arms, Isak Musliu and Haradin Bala, for crimes against Serb civilians and Albanians perceived as collaborators in the village of Llapushnik and the prison that the Kosovo Liberation Army (KLA) operated there during the conflict. Limaj and Musliu were acquitted, though Balaj was found guilty of torture and murder and sentenced to 13 years imprisonment. Early next year, ICTY will open the trial of former Kosovo Prime Minister and KLA Commander Ramush Haradinaj and his subordinates for war crimes committed against Serbs, Albanians perceived as collaborators, and Roma and other minorities. ICTY will not pursue other war crimes trials related to Kosovo since its mandate expired in 2005 and the deadline to file new cases has passed.

¶4. (S) With ICTY closing its doors, most war crimes committed in Kosovo will have to be tried in Kosovo. In the seven years since the conflict ended, only three big cases have been tried by Kosovo courts -- the Llapi Group, the Kacanik Group and the Krasniqi case. All involved crimes committed by Albanians against Serbs, Albanians perceived as collaborators, and Roma and other minorities. The Llapi Group included current Democratic Party of Kosovo (PDK) Vice President Rrustem Remi Mustafa and three other high-profile former KLA members. International judges convicted them, but the Kosovo Supreme Court overturned the decision, ordered a retrial and granted them provisional release. The Kacanik Group involved five former low-level KLA members, three of whom were convicted. Former KLA member and KPC Commander

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Selim Krasniqi and five others were also tried for war crimes; Krasniqi and one co-defendant, Bedri Zyberaj, received 7 years in prison for torture, but were released on bail pending the appeals process. Charges were dropped against their co-defendants. (Note: UNMIK DOJ sources report that the appellate court granted the prosecutors' appeal and ordered the immediate detention of Krasniqi and Zyberaj; KFOR sources indicate that they may be picked up soon. End Note.)

In addition to the aforementioned cases, there are 2,000-3,000 war crimes reports that UNMIK still needs to review to determine whether they are prosecutable.

¶5. (C) UNMIK DOJ Director Moskowitz (reftel) has underlined the difficulty of sustaining domestic prosecutions in Kosovo and has told us that he seriously questions whether to go forward with other war crimes prosecutions at this time. He complained that courts in Kosovo have no access to Serb suspects now in Serbia, and observed that prosecutions against Albanian war crimes perpetrators ran the risk of escalating public tension, a risky venture just before the status decision. Further, with no real witness protection program in place, witnesses are extremely reluctant to come forward. (Note: USOP is in the early stages of working on a witness protection program; a needs assessment team will come to Pristina the week of September 24. USOP is also funding the installation of software and equipment to establish video conferencing links between Kosovo courts and courts in other jurisdictions that have video conferencing technology, including Belgrade and Sarajevo. Court procedural rules permitting, this will enable witnesses to testify without crossing borders. The USOP project supplements a British-funded effort to install closed circuit video systems in five Kosovo courts. End Note.)

Comment

¶6. (C) Ambassador Williamson can use this visit to review current prosecution efforts and to influence, at a decisive stage, the EU's approach to war crimes issues as it defines its follow-on RoL mission. Both UNMIK and EU officials are very receptive to and appreciative of USG advice on these

issues. Ambassador Williamson's discussions will offer a good opportunity to encourage officials to persevere, despite Kosovo's challenging legal and political climate, and to remain engaged on war crimes issues after final status is decided. Key to all this is creating an effective war crimes prosecution infrastructure.

17. (U) USOP does not/not clear this cable for release to U.N. Special Envoy for Kosovo Martti Ahtisaari.

KAIDANOW